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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/660,344	09/10/2003	Darin Barri	MAT 3H5	5151

23581 7590 10/06/2005

KOLISCH HARTWELL, P.C.
520 S.W. YAMHILL STREET
SUITE 200
PORTLAND, OR 97204

EXAMINER


CEGIELNIK, URSZULA M

ART UNIT	PAPER NUMBER
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3714

DATE MAILED: 10/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/660,344	BARRI ET AL. 	
	Examiner	Art Unit	
	Urszula M. Cegielnik	3714	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 23-29 is/are allowed.
- 6) ☒ Claim(s) 1-6, 8-10 and 30-32 is/are rejected.
- 7) ☒ Claim(s) 7 and 11-22 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>09/10/03; 05/05/04</u> | 6) <input type="checkbox"/> Other: _____ |

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DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 30-32 are rejected under 35 U.S.C. 102(e) as being anticipated by Speasl et al.

Speasl et al. disclose a first sensor (404a, which senses temperature through a channel) responsive to an environmental factor (*such as temperature*) in a first location; a second sensor (404a, which senses temperature through a different channel) responsive to an environmental factor (*such as temperature*) in a second location (col. 4, line 67 through col. 5, lines 1-3); an output device; and a processor (418) coupled to the first (404a, through a channel) and second sensors (404a, though a different channel) capable of comparing the environmental factor in the second location and activating the output device (*such as an audible alarm when a threshold difference in the environmental factors is sensed - col. 7, lines 34-43*); the environmental factor is humidity (col. 6, lines 1-10); the airflow across the sensor is substantially restricted (*the airflow*

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across the sensor restricted from the ambient environment outside the container).

Claims 1-6, and 8-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Smirnov.

Smirnov discloses a toy comprising a breath sensor (paragraph 0077, lines 1-3); an output device (paragraph 0033, lines 1-3); and a processor (21) operatively coupled to the breath sensor (paragraph 0077, lines 1-7) and to the output device (paragraph 0033, lines 1-3) wherein the processor (21) is adapted to cause the toy to interact with a user (paragraph 0045, lines 1-12); the processor (21) is further adapted to cause the toy to exhibit a behavior in response to user input (paragraph 0048, lines 1-10); the processor (21) is further adapted to cause the toy to elicit behavior in a user and detect the behavior (paragraph 0048, lines 1-10); the breath sensor includes a humidity sensor (paragraph 0077, lines 1-3); a reference sensor (*paragraph 0077, lines 3-5, providing a corresponding sensor connected to a processor; since the corresponding sensor is connected to a processor [which stores digital values] it is inherently capable of detecting an ambient value*); the breath sensor includes a temperature sensor (5), and the toy is a stuffed figure (*e.g. a teddy bear*).

Allowable Subject Matter

Claims 23-29 are allowed.

Claims 7, and 11-22 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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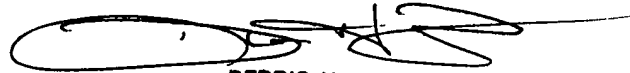
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Urszula M. Cegielnik whose telephone number is 571-272-4420. The examiner can normally be reached on Monday through Friday, from 5:45AM - 2:15PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris H. Banks can be reached on 571-272-4419.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300 for both regular and After Final communications.

Urszula M. Cegielnik
Assistant Examiner
Art Unit 3714



DERRIS H. BANKS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700